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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/602,987

06/25/2003

Anthony J. Wasilewski

A-8919

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7590

11/14/2006

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EXAMINER

CHAI, LONGBIT

ART UNIT

PAPER NUMBER

2131

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,987

Applicant(s)

WASILEWSKI ET AL.

Examiner

Longbit Chai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Original application contained claims 1 – 19. Claims 1 and 13 have been amended in an amendment filed on 10/30/2006. The amendment filed have been entered and made of record. Presently, pending claims are 1 – 19.

Response to Arguments

2. Applicant's arguments with respect to the subject matter of the instant claims have been fully considered but are not persuasive.

3. As per claim 1 and 13, Applicant asserts that Wasilewski does not teach selecting for encryption a plurality of digital bit streams from a transport stream using an identifier. Examiner respectfully disagrees because Wasilewski teaches (a) one or more bit streams of audio, video and data streams can be selected for encryption and besides, (b) each type of audio, video and data streams is uniquely assigned a packet ID (PID) and as such Wasilewski does teach selecting for encryption a digital bit stream from a plurality of digital bit streams using an identifier (Wasilewski: Figure 1 and Column 4 Line 65 – Column 5 Line 7 and Column 13 Line 65 – Column 14 Line 5) – at least this prior-art rejection **is consistent with** the original disclosure of the specification (i.e. Provisional 60/054,578: Page 28 Line 25-28 & SPEC: Page 27 Line 16 – 26) that indicates "A subcategory of information can thus be identified by the PID of its packets. As shown at output packets 707, the output from MUX704 is a sequence of individual packets from the various subcategories. **Any part or all of MPEG-2 transport stream**

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701 may be encrypted". Therefore, "selecting for encryption based on an packet identifier" is not specifically supported by the original disclosures of the instant application and claim limitations.

4. Therefore, for clarity purpose, an additional 35 U.S.C. 112, 1st paragraph rejection of written description is presented along with the original 35 U.S.C. 102(b) rejection which is qualified to maintain the original status of FINAL rejection.

Information Disclosure Statement

The information disclosure statement filed on 12/06/2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the inventor (applicant) name, application number, and some of the attorney docket numbers as indicated on the IDS are incorrect.

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 13 of copending Application No. 10/602,986. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 13 of the instant application are envisioned by the claims of copending application that contain all the limitations of claims of the instant application because *the claim limitation of "the*

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partially-encrypted bit stream” as recited in the instant application is equivalent to that of “the combined bit stream” as presented in the co-pending application and as such are unpatentable for obvious-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Objection

5. The specification is objected to as failing to provide proper antecedent basis for the claim amendment filed 10/30/2006 because selecting for encryption using packet identifier not specifically disclosed on the original specification (Provisional 60/054,578: Page 28 Line 25-28 & SPEC: Page 27 Line 19 – 29). See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1 and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to support the alleged claim limitation “selecting for encryption based on an packet identifier”. According to the original disclosure of the specification (i.e. Provisional 60/054,578: Page 28 Line 25-28

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& SPEC: Page 27 Line 19 – 29) that indicates "A subcategory of information can thus be identified by the PID of its packets. As shown at output packets 707, the output from MUX704 is a sequence of individual packets from the various subcategories. Any part or all of MPEG-2 transport stream 701 may be encrypted". Therefore, "selecting for encryption based on an packet identifier" is not specifically supported by original disclosures of the instant application and claim limitations and the claims 1 and 13 were amended to include "selecting for encryption based on an packet identifier" in the amendment filed October 30, 2006 and is not considered as part of the original disclosures.

Any other claims not addressed are also rejected accordingly by virtue of their dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraph of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wasilewski (U.S. Patent 5,418,782).

As per claim 1, Wasilewski teaches a method for providing a plurality of programs in a conditional access system (Wasilewski: Figure 1 and Column 1 Line 44 – 52), the method comprising the steps of:

selecting for encryption a plurality of digital bit streams from a transport stream, the selecting performed using an identifier (Wasilewski: Figure 1 and Column 4 Line 65 – Column 5 Line 7 and Column 13 Line 65 – Column 14 Line 5: (a) one or more bit streams of audio, video and data streams can be selected for encryption and besides, (b) each type of audio, video and data streams is uniquely assigned a packet ID (PID) and as such Wasilewski does teach selecting for encryption a digital bit stream from a plurality of digital bit streams using an identifier – at least this prior-art rejection is consistent with the disclosure of the original specification (i.e. Provisional 60/054,578: Page 28 Line 25-28 & SPEC: Page 27 Line 19 – 29) that indicates "A subcategory of information can thus be identified by the PID of its packets. As shown at output packets 707, the output from MUX704 is a sequence of individual packets from the various subcategories. Any part or all of MPEG-2 transport stream 701 may be encrypted";

encrypting a portion of each of the plurality of digital bit streams (Wasilewski: Column 4 Line 65 – 67: one or more service components of a given basic service can be encrypted prior to transmission – i.e. partially encrypted);

combining the encrypted portion and the unencrypted portion with the transport stream (Wasilewski: Column 5 Line 1 – 7 and Column 4 Line 65 – 67: multiplexing is equivalent to combining); and

transmitting the combined stream (Wasilewski: Column 6 Line 17 – 20).

As per claim 13, Wasilewski teaches a method for providing a plurality of programs in a conditional access system (Wasilewski: Figure 1 and Column 1 Line 44 – 52), the method comprising the steps of:

selecting a plurality of elementary bit streams from a plurality of programs (Wasilewski: Column 4 Line 58 – Column 5 Line 7 and Column 13 Line 57 – Column 14 Line 16: service components, such as video (V), audio (A), and closed-captioning (i.e. CC – data) are considered as a plurality of programs);

encrypting a portion of the selected streams (Wasilewski: Column 4 Line 65 – 67: one or more service components of a given basic service can be encrypted prior to transmission – i.e. partially encrypted);

combining the encrypted portion and the remaining portion of the selected streams with the plurality of programs to provide a partially-encrypted stream (Wasilewski: Column 5 Line 1 – 7 and Column 4 Line 65 – 67: multiplexing is equivalent to combining); and

transmitting the partially-encrypted stream (Wasilewski: Column 6 Line 17 – 20).

As per claim 2 and 14, Wasilewski teaches each of the plurality of digital bit streams includes a packet identifier, and wherein the selecting step selects each of the plurality of digital bit streams by identifying a predetermined packet identifier (Wasilewski: Column 13 Line 65 – Column 14 Line 5 and Column 4 Line 65 – 67: each packet ID is uniquely associated with a particular basic service (Video, Audio, Data) and

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any one or more service components of a given basic service can be encrypted prior to transmission (i.e. partially encrypted)).

As per claim 3 and 15, Wasilewski teaches each of the plurality of digital bit streams includes a packet identifier, and wherein the selecting step selects the plurality of digital bit streams by identifying a plurality of predetermined packet identifiers (Wasilewski: Column 13 Line 65 – Column 14 Line 5 and Column 4 Line 65 – 67: see the same rationale set forth in rejecting claim 2).

As per claim 4, Wasilewski teaches the selected plurality of digital bit streams are programs (Wasilewski: Column 13 Line 57 – 67 and Column 4 Line 65 – 67: each packet ID is uniquely associated with a particular program / basic service (Video, Audio, Data) and any one or more service components of a given program / basic service can be encrypted prior to transmission (i.e. partially encrypted)).

As per claim 5, Wasilewski teaches the selected plurality of digital bit streams are elementary digital bit streams (Wasilewski: Column 13 Line 57 – 67 and Column 4 Line 65 – 67: each packet ID is uniquely associated with a particular elementary digital bit stream / basic service (Video, Audio, Data) and any one or more service components of a given elementary digital bit stream / basic service can be encrypted prior to transmission (i.e. partially encrypted)).

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As per claim 6, Wasilewski teaches a portion of the selected plurality of digital bit streams is encrypted according to the packet identifier associated with each of the plurality of digital bit streams (Wasilewski: Column 13 Line 65 – Column 14 Line 5 and Column 4 Line 65 – 67: each packet ID is uniquely associated with a particular basic service (Video, Audio, Data) and any one or more service components of a given basic service can be encrypted prior to transmission (i.e. partially encrypted) – i.e. any one of the video stream, the audio stream, and the data stream can be included and selected according to its packet ID).

As per claim 7, Wasilewski teaches the packet identifier is indicative of each of the plurality of digital bit streams being one of a video stream, an audio stream, and a data stream (Wasilewski: Column 13 Line 65 – Column 14 Line 5).

As per claim 8 and 16, Wasilewski teaches the encrypted portion includes at least one of the plurality of digital bit streams associated with the video stream (Wasilewski: Column 13 Line 65 – Column 14 Line 5 and Column 4 Line 65 – 67: each packet ID is uniquely associated with a particular basic service (Video, Audio, Data) and any one or more service components of a given basic service can be encrypted prior to transmission (i.e. partially encrypted) – i.e. any one of the video stream, the audio stream, and the data stream can be included and selected and accordingly video stream can be included and selected).

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As per claim 9 and 17, Wasilewski teaches the encrypted portion includes at least one of the plurality of digital bit streams associated with the audio stream (Wasilewski: Column 13 Line 65 – Column 14 Line 5 and Column 4 Line 65 – 67: each packet ID is uniquely associated with a particular basic service (Video, Audio, Data) and any one or more service components of a given basic service can be encrypted prior to transmission (i.e. partially encrypted) – i.e. any one of the video stream, the audio stream, and the data stream can be included and selected and accordingly audio stream can be included and selected).

As per claim 10 and 18, Wasilewski teaches the encrypted portion includes at least one of the plurality of digital bit streams associated with the data stream (Wasilewski: Column 13 Line 65 – Column 14 Line 5 and Column 4 Line 65 – 67: each packet ID is uniquely associated with a particular basic service (Video, Audio, Data) and any one or more service components of a given basic service can be encrypted prior to transmission (i.e. partially encrypted) – i.e. any one of the video stream, the audio stream, and the data stream can be included and selected and accordingly data stream can be included and selected).

As per claim 11 and 19, Wasilewski teaches the encrypted portion includes at least one of the plurality of digital bit streams associated with at least one of the video stream, the audio stream, and the data stream (Wasilewski: Column 13 Line 65 – Column 14 Line 5 and Column 4 Line 65 – 67: each packet ID is uniquely associated

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with a particular basic service (Video, Audio, Data) and any one or more service components of a given basic service can be encrypted prior to transmission (i.e. partially encrypted) – i.e. any one of the video stream, the audio stream, and the data stream can be included and selected).

As per claim 12, Wasilewski teaches the portion of the plurality of digital bit streams is encrypted according to a first level encryption method (Wasilewski: Column 4 Line 65 – 67).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Longbit Chai whose telephone number is 571-272-3788.

The examiner can normally be reached on Monday-Friday 8:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


LBC

Longbit Chai
Examiner
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CHRISTOPHER REVAK
PRIMARY EXAMINER

